



EXECUTIVE CHAMBERS

HONOLULU

LINDA LINGLE
GOVERNOR

February 12, 2003

The Honorable Robert Bunda
and Members of the Senate
Twenty-Second State Legislature
State Capitol, Room 003
Honolulu, Hawaii 96813

Dear Mr. President and Members of the Senate:

For your information and consideration, I am transmitting herewith two (2) copies of the reporting requirements of Act 259, SLH 2001, the General Appropriations Act of 2001, as amended by Act 177, SLH 2002, the Supplemental Appropriations Act of 2002, Findings and Recommendations on a Review of the Home and Community-Based Waiver Program in Developmental Disabilities. Pursuant to Act 231, SLH 2001, I am also informing you that the report may be viewed electronically at www.hawaii.gov/budget/LegReports/reportlist.htm.

Sincerely,

/s/

LINDA LINGLE

Attachments



EXECUTIVE CHAMBERS
HONOLULU

LINDA LINGLE
GOVERNOR

February 12, 2003

The Honorable Calvin K.Y. Say
and Members of the House of Representatives
Twenty-Second State Legislature
State Capitol, Room 431
Honolulu, Hawaii 96813

Dear Mr. Speaker and Members of the House:

For your information and consideration, I am transmitting herewith two (2) copies of the reporting requirements of Act 259, SLH 2001, the General Appropriations Act of 2001, as amended by Act 177, SLH 2002, the Supplemental Appropriations Act of 2002, *Findings and Recommendations on a Review of the Home and Community-Based Waiver Program in Developmental Disabilities*. Pursuant to Act 231, SLH 2001, I am also informing you that the report may be viewed electronically at www.hawaii.gov/budget/LegReports/reportlist.htm.

Sincerely,

/s/

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Attachments

**FINDINGS AND RECOMMENDATIONS
ON A REVIEW OF THE
HOME AND COMMUNITY-BASED WAIVER PROGRAM
IN DEVELOPMENTAL DISABILITIES**

**As Mandated by Act 177,
Session Laws of Hawaii 2002**

**STATE OF HAWAII
DEPARTMENT OF BUDGET AND FINANCE
BUDGET, PROGRAM PLANNING AND MANAGEMENT DIVISION**

January 2003

Purpose

This report was prepared in response to Section 7(6) of Act 177, Session Laws of Hawaii 2002, an amendment adding a new section, identified as Section 167.3, to the Executive Appropriations Act (Act 259, SLH 2001).

Section 167.3 requires the Department of Budget and Finance (B&F) to perform a review of the Home and Community-Based Waiver Program in Developmental Disabilities (DD) of the Department of Health (DOH). The review shall determine the feasibility of providing (developmental disability Medicaid waiver) services through the Department of Human Services (DHS) rather than through DOH.

“SECTION 167.3. Provided that the department of budget and finance shall perform a review of the home and community-based waiver program in developmental disabilities (HTH 501) of the department of health; provided further that the review shall include but not be limited to determining the feasibility of providing services through the department of human services rather than the department of health; and provided further that the report shall be submitted to the legislature no later than twenty days prior to the convening of the 2003 regular session.”

Review

DOH's DD Division provides a system of supports and services for individuals with developmental disabilities and/or mental retardation to live a healthy, meaningful, and productive life in the community. As of December (20-23) 2002, DOH's DD Division served 2,986 individuals, of which 1,618 (or approximately 54%) qualify and receive Medicaid funds through DHS' Medicaid waiver program. Although DHS is responsible for the use of Medicaid funds, DD Division is the agency that actually expends the funds through services provided for its DD clients.

Current Status of Department of Health's Developmental Disabilities Division

DD Division has been transitioning from providing institutional services at Waimano Training School and Hospital to providing home and community-based services by redeploying resources (such as divisional reorganization and position variances) and working with the community to develop individualized services that fulfill client self-determination, i.e., providing the client opportunities for: control over his life, exercising choice, managing personal resources, and participating in the community. Consultants¹ hired by DD Division and the State Council on DD (the State agency administratively attached to DOH with a mandate to develop a State plan for individuals with DD, and coordinate and evaluate services to the developmentally disabled) recently provided recommendations on the transition and raised concerns such as inconsistencies in division policies, heavy caseloads, and insufficient training of staff.

¹ Robin E. Cooper, NASDDDS, Inc., Person-Centered Management: The Next Case Generation; and Jeffrey A. Keilson, M.A., and Trudy J. Fletcher, M.S.W., C.S.W., Coordinating Individual Services and Supports - Moving from System-Centered Case Management to a Person-Directed Approach

On June 30, 2002, the last unit of Waimano Training School and Hospital, the Crisis Shelter, was closed ending the provision of State institutional services to DD clients.

DD Division, with its new division administrator, is:

- Developing curricula to expand staff training.
- Planning to reorganize its remaining Waimano units to undertake quality assurance and certification functions.
- Working with the State Council on DD to develop demonstration projects that implement person-centered planning strategies.

DOH also has a positive expectation that the terms of the Makin Settlement Agreement* will be successfully met (that 700 persons originally on the waitlist for DD services when the lawsuit was filed will have been provided services by June 30, 2003).

*Makin, et al, versus State et al, is a class action lawsuit alleging that persons forced to wait for services due to lack of state funding violates federal laws and their procedural rights. If the State meets the terms of the Agreement and provides services to new clients "at a reasonable pace," the State will be protected from claims filed by plaintiffs and from similar lawsuits in the future.

Department of Human Services' Programs and Responsibilities

Medicaid, which covers all services that a physician or other health care professional identifies as being "medically necessary," is a federal-state partnership that assists states in providing medical services to eligible low-income individuals. DHS is recognized by the U.S. Centers for Medicare and Medicaid Services (CMS) as the Medicaid agency for the State of Hawaii. Hence, DHS is solely responsible for the way the State expends federal funds on Medicaid eligible client services.

DHS' Social Services Division's Adult and Community Care Services Branch (ACCSB) provides a range of services designed to protect vulnerable adults and to prevent premature institutionalization of vulnerable dependent adults. Many of the clients served by ACCSB are participants in Medicaid-waiver programs such as Nursing Homes Without Walls (which provides in-home services as an alternative to institutional care) and the Residential Alternative Community Care Program (which provides residential placements in foster homes, expanded Adult Residential Care Homes, and assisted living facilities as alternatives to institutional care for adults who require nursing facility level care).

The DD/Mentally Retarded Home and Community-Based Services Program is the only Medicaid waiver program funded through DHS (for Medicaid-qualified clients) that is not administered by DHS.

Feasibility of Transferring the Developmental Disability/Home and Community-Based Services Program from the Department of Health to the Department of Human Services

With its experience implementing other Medicaid waiver programs, DHS should not have any significant problem administering the DD/Home and Community-Based Services Program.

DHS' primary interest in the DD/Home and Community Based Services Program is to consolidate its control over all Medicaid waiver program financing. Although it is responsible (as the sole State Medicaid agency), DHS has no direct control over the funds or personnel implementing the DD/Home and Community-Based Services Program.

DHS indicated that it would be willing to accept the transfer of Medicaid eligible DD clients (along with the funding), and although ACCSB has social workers on staff, it would contract case management services for the DD program. Non-Medicaid DD clients would continue to receive services through DOH.

The following are concerns raised by any full or partial transfer of DD/Home and Community-Based Services Program responsibilities from DOH to DHS.

1. DHS would take responsibility for only Medicaid-qualified clients. The balance of DD clients would remain with DOH.

This situation would result in fragmentation of the program and duplication of services. There are also related administrative concerns/requirements:

- The transfer of approximately half the clients (54%) and a majority of the division workload (a specific percentage of workload could not be identified) may require a reduction in force of DD Division staff.
 - The transfer would require statutory revision, including requiring DHS compliance with current DD mandates, and may require discussions on identification, separation, and/or duplication of responsibilities between the departments.
 - DHS and DOH would need to negotiate the transfer of funds, including the costing of case management and related expenses for transfer.
 - Although court approval is not required for the transfer, DHS will become responsible for compliance with the terms of the Makin Settlement Agreement. Revisions to change the Agreement naming DHS as the responsible party will require concurrence of the plaintiffs.
2. DHS would contract case management services. DOH would continue to provide case management services in-house.

3. There is potential confusion for clients if they have changes in their circumstances that alter their Medicaid eligibility status.

A DD client whose eligibility for Medicaid changes would have his case transferred to a new agency: DHS would only be responsible for Medicaid eligible clients and DOH would be responsible for non-Medicaid eligible clients. Clients transferring between departments may require new service plans based on the services provided by each agency.

4. Historically, DOH has been responsible for DD/mentally retarded individuals due to DOH's experience with these individuals and their needs. DHS is not familiar with the special needs of these clients.
5. The current discussion of a transfer of the DD/Home and Community-Based Services Program may be premature because of changing factors that may have a significant impact on the program. These include:
 - New administration/department heads: Both departments will be headed by newly appointed directors and DD Division has a new division administrator, all of whom should have input into this issue.
 - Demonstration projects are being initiated by the State Council on DD and DOH; projects include new strategies to implement person-centered planning in which decision-making authority is given to the client or a group of clients and supportive persons.
6. Earlier implementation problems, such as billing delays, appear to be a thing of the past.

Alternatives to the transfer of the DD/Home and Community-Based Services Program to DHS include:

1. Transferring only the Medicaid dollars from DOH to DHS.

DOH would have difficulty planning and implementing program activities if it is not certain of the funds available, e.g., DHS could restrict or transfer program funds.

2. DOH contracting with DHS as an *Organized Health Care Delivery System* (OHCDS) in which DD Division has control over the financing and delivery of services and DHS is only responsible to ensure general compliance with Medicaid requirements.

OHCDS is used in several states. Under a contractual agreement, DD Division would become the lead agency in the state only for DD/Home and Community-Based Services and would work directly with CMS. DHS' role would be significantly reduced. DD

Division would be responsible for service contracts, payments, complaint resolution, and compliance with specific requirements. DHS opposes this alternative because it believes that DOH does not have sufficient expertise in operating a system in accordance with Medicaid requirements.

3. Transferring the entire DD Division to DHS.

This alternative would result in fragmentation of related programs serving similar clients in DOH. Among them: the Early Intervention Services program, the Child and Adolescent Mental Health Division, and the Adult Mental Health Division (including Hawaii State Hospital). Based on program change or changes in client needs, responsibility for clients may be transferred between these programs and DD Division. With the State Council on DD being administratively attached to DOH, the proximity of these programs facilitates movement, communication, and working together in the interest of client needs.

In addition, DHS would see an expansion of its responsibilities. Currently, DHS' client groups are focused on individuals who are financially needy. The transfer of the entire DD Division would have DHS serving clients of various income levels.

Included in this report are written responses to a B&F request for position statements on the issue of a DD/Home and Community-Based Services Program transfer from DOH (Attachment A) and DHS (Attachment B). These written responses were prepared and received before new DOH and DHS Directors were appointed and without their input.

Conclusion

DHS should be able to implement the DD/Home and Community-Based Services program. However, any full or partial transfer of responsibilities from DOH to DHS does not appear to have sufficient justification to warrant the disruption of services provided to DD clients that may occur. It appears that past problems between the two agencies have been addressed (e.g., delayed billings). Therefore, a transfer does not appear to address any outstanding problem. Further, the results of current studies and reviews in the area of case management and demonstration projects in person-centered planning may need to be considered, as well as input from new administrative personnel in any discussion of the future of the program. Finally, pursuant to Chapter 333E, HRS, and Public Law 106-402, the State Council on DD should be included in any discussion on future plans relating to services to DD individuals.